

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4619 of 2020

Dr. N. Gnanasundaram

... Petitioner

Vs.

1.The Secretary to Government
Health & Family Welfare Department,
Fort St. George, Chennai - 9.

2.The Principal Secretary to Government
Finance (PC) Department,
Fort St. George, Chennai - 9.

3.The Director of Medical Education,
Kilpauk, Chennai - 10.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, directing the respondents to revise the pension of the petitioner, based on the orders of the Government in G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018 and draw and disburse the same, in the light of the representation made by the petitioner dated 01.02.2019, within a reasonable time.

For Petitioner : Mr. K. Venkatramani,
Senior Counsel
for Mr. M. Muthappan

For Respondents : Mr. P.S. Siva Shanmuga Sundaram,
for R1 & R2
Special Government Pleader
Mr. S. Karthikei Balan, for R3
Government Advocate

O R D E R

This writ petition has been filed for the issue of the writ of Mandamus directing the respondents to revise the pension of the petitioner based on G.O.Ms.No.236, Finance (Pay Cell) Department, dated 12.07.2018 and to draw and disburse the same,

in the light of the representation made by the petitioner on 01.02.2019.

2. The case of the petitioner is that he was posted as a Assistant Surgeon Dentistry in the year 1964 at the Government Hospital, Tuticorin. The petitioner superannuated from service on 30.06.1999 in the post of Principal in Tamil Nadu Government Dental College at Madras.

3. The Government had passed an order where the combined cadre of Associate Professor / Professor is split up into Associate Professor/ Professor and it was re-designated as Senior Civil Surgeon and Chief Civil Surgeon with consequential revision in scale of pay. This Government order was extended to all the officers working in Tamil Nadu Medical Services of all the Directorates. Thereafter, it was given a retrospective effect subject to granting monetary benefits from 23.10.2010.

4. Ultimately, the Government passed an order in G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018. The relevant portion in the Government Order is extracted hereunder :-

"6.The Government after careful consideration has decided to revise the pension /family pension of the Professors / Medical Officers retired prior to the date of issue of Government Order first read above on the basis of the orders issued in the Government orders third and seventh read above with prospective effect considering the financial commitment due to issue of this general orders. Accordingly, Government direct that the Pension /Family Pension of the Professors /Medical Officers (Rs.12,000-16500) retired prior to 23.10.2009 shall be revised with reference to the higher pay scales granted to the Professors who were elevated to Chief Civil Surgeons due to time bound upgradation in the Government Order first read above under clause (2) of Para -5 of Government Order sixth read above with reference to the revised Level 28 of Pay matrix of Rs.123100 - 215900 as against the upgraded pre-revised pay scale of Rs.37,400-67000 + Grade pay Rs.8700 at rs.61,550/- and Rs.36,930 respectively with prospective monetary benefit from 1st July 2018 subject to fullfilling the condition of net qualifying service stipulated for full pension and issue orders accordingly.

7. Based on the above orders, retired Professors /Medical Officers shall apply to the authority inthe Department in which the Government

employee last served who is competent to process and forward pension proposals to the Accountant General / Pension pay officer/ Treasury Officers concerned in the prescribed form as at Annexure - I of Government order sixth read above in triplicate. The authority concerned shall revise both pension / Family pension of the pensioners /Family pensioners accordingly.

8. The competent authority shall verify the net qualifying service and fix the revised pension /Family pension admissible as ordered above and communicate the copy of statement duly approved to the Pension pay officer, Chennai /Treasury Officers/SubTreasury Officers concerned with a copy to the retired pensioners /Family Pensioners.

9. The Pension Pay officer /Treasury Officers / Sub Treasury Officers shall verify the correctness of the revised pension /Family pension and make payment after making necessary entries in the records in their office."

5. Pursuant to the Government Order, the petitioner has submitted a representation seeking for revision in the pension. It is also seen from records that the Principal of the Tamil Nadu Government Dental college has forwarded the names of the persons, who have sought for the revision of pension as per the above Government Order to the Pension Pay Office by letter dated 17.10.2018. The petitioner had also made a representation to the respondents in this regard on 01.02.2019. Since the same has not been considered, the petitioner was constrained to approach this Court, seeking for appropriate direction.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

7. Taking into consideration the facts and circumstances of the case and also of the fact that the claim made by the petitioner has to be considered in line with the Government Order that has been mentioned supra and the application made by the petitioner has already been forwarded to the 1st respondent, there shall be a direction to the 1st and 2nd respondents to consider the representation made by the petitioner on 01.02.2019 and pass appropriate orders, in the light of G.O.Ms.No.236, Finance (Pay Cell) Department dated 12.07.2018, within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the respondents 1 and 2 along with copy of representation dated 01.02.2019 and also a copy of this order.

8. This writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government

Health & Family Welfare Department,
Fort St. George, Chennai - 9.

2.The Principal Secretary to Government

Finance (PC) Department,
Fort St. George, Chennai - 9.

3.The Director of Medical Education,

Kilpauk, Chennai - 10.

+1 cc to M/s.M.Muthappan, Advocate Sr.No. 17313

+1 cc to The Government Pleader Sr.No.17183

AKM/05.03.2020/4P-6C /

W.P.No.4619 of 2020

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